

From: [Schaeffer, Dennis](#)
To: [Andrew J. Pace](#); [Leah Costanzo](#)
Cc: [keleonard@kslnlaw.com](#); [Jim Orr](#)
Subject: Re: Evans, Billy and Heather v. Southtowns Catholic School, et al.: 801322/2019 Billy Evans et al v. Southtowns Catholic School et al
Date: Thursday, September 14, 2023 12:30:05 PM

Andrew -

I have confirmed with the Diocese's Chapter 11 counsel that they do not intend to bring a motion before Judge Bucki regarding this matter.

Best,
Dennis

Dennis K. Schaeffer

[716.416.7049](#) Direct

[716.341.4385](#) Cell

From: Schaeffer, Dennis <dschaeffer@bsk.com>
Sent: Thursday, September 14, 2023 11:30 AM
To: Andrew J. Pace <apace@nycourts.gov>; Leah Costanzo <lcostanzo@steveboyd.com>
Cc: [keleonard@kslnlaw.com](#) <keleonard@kslnlaw.com>; Jim Orr <JOrr@steveboyd.com>; Schaeffer, Dennis <dschaeffer@bsk.com>
Subject: RE: 801322/2019 Billy Evans et al v. Southtowns Catholic School et al

Andrew - Sorry for the delay on my part. I'll follow up again and get an update on where things stand in the Chapter 11 case. I'll be delayed in doing so, as I'm in the midst of attending to an urgent family matter.

Dennis K. Schaeffer

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From: Andrew J. Pace <apace@nycourts.gov>
Sent: Monday, September 11, 2023 1:55 PM
To: Leah Costanzo <lcostanzo@steveboyd.com>; Schaeffer, Dennis <dschaeffer@bsk.com>
Cc: [keleonard@kslnlaw.com](#); Jim Orr <JOrr@steveboyd.com>
Subject: RE: 801322/2019 Billy Evans et al v. Southtowns Catholic School et al

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Dennis,

Any further updates from bankruptcy counsel before we put this motion back on the calendar?

From: Andrew J. Pace

Sent: Monday, August 14, 2023 2:21 PM
To: Leah Costanzo <lcostanzo@steveboyd.com>
Cc: keleonard@kslnlaw.com; Jim Orr <JOrr@steveboyd.com>; Schaeffer, Dennis <dschaeffer@bsk.com>
Subject: RE: 801322/2019 Billy Evans et al v. Southtowns Catholic School et al

I suspect the Judge will want further oral argument to clarify what's going on in Bankruptcy Court. But let's wait to see what Dennis finds. If there is clarification from the bankruptcy attorneys, then perhaps the Court will simply render a decision. Stay tuned. Thanks.

From: Leah Costanzo <lcostanzo@steveboyd.com>
Sent: Monday, August 14, 2023 2:17 PM
To: Andrew J. Pace <apace@nycourts.gov>
Cc: keleonard@kslnlaw.com; Jim Orr <JOrr@steveboyd.com>; Schaeffer, Dennis <dschaeffer@bsk.com>
Subject: RE: 801322/2019 Billy Evans et al v. Southtowns Catholic School et al

Thanks Andrew. We already had oral argument and a subsequent conference with the Judge to discuss an additional framed issue. Is the September/October date for a decision or an additional oral argument?

Leah

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From: Andrew J. Pace <apace@nycourts.gov>
Sent: Monday, August 14, 2023 2:15 PM
To: Schaeffer, Dennis <dschaeffer@bsk.com>; Leah Costanzo <lcostanzo@steveboyd.com>
Cc: keleonard@kslnlaw.com; Jim Orr <JOrr@steveboyd.com>
Subject: RE: 801322/2019 Billy Evans et al v. Southtowns Catholic School et al

Thank you for the detailed updates, although admittedly this is a little hard to follow...

Dennis- Please speak with your colleagues and try to provide clarification by next week regarding the Diocese's plans. If we are still not on the same page by next week, we will bring this motion back in September or October.

Thanks,
Andrew

From: Schaeffer, Dennis <dschaeffer@bsk.com>
Sent: Monday, August 14, 2023 2:05 PM
To: Leah Costanzo <lcostanzo@steveboyd.com>; Andrew J. Pace <apace@nycourts.gov>
Cc: keleonard@kslnlaw.com; Jim Orr <JOrr@steveboyd.com>; Schaeffer, Dennis <dschaeffer@bsk.com>
Subject: RE: 801322/2019 Billy Evans et al v. Southtowns Catholic School et al

It was never contemplated that Southtowns Catholic would move the Bankruptcy Court for relief relative to the bankruptcy estate of the Diocese. I am working to get an update from my colleagues regarding the Diocese's plans in that case.

Dennis K. Schaeffer

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From: Leah Costanzo <lcostanzo@steveboyd.com>
Sent: Monday, August 14, 2023 12:23 PM
To: Andrew J. Pace <apace@nycourts.gov>
Cc: keleonard@kslnlaw.com; Jim Orr <JOrr@steveboyd.com>; Schaeffer, Dennis <dschaeffer@bsk.com>
Subject: RE: 801322/2019 Billy Evans et al v. Southtowns Catholic School et al

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Andrew,

I was waiting on a motion in bankruptcy court. Since it doesn't appear defendant Southtowns Catholic will be making one, I think the Court can make a decision on the pending motion. Thank you.

Leah

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From: Schaeffer, Dennis <dschaeffer@bsk.com>
Sent: Monday, August 14, 2023 10:43 AM
To: Leah Costanzo <lcostanzo@steveboyd.com>; Andrew J. Pace <apace@nycourts.gov>
Cc: keleonard@kslnlaw.com; Jim Orr <JOrr@steveboyd.com>; Schaeffer, Dennis <dschaeffer@bsk.com>
Subject: RE: 801322/2019 Billy Evans et al v. Southtowns Catholic School et al

Andrew, Leah -

I want to clarify a couple things in Leah's email below:

1. It is Southtowns Catholic's motion to stay this action that was argued and remains pending, not "defendants' motion" generally.
2. It was never contemplated that defendant Southtowns Catholic would move the Bankruptcy Court for stay relief. As explained in Southtowns Catholic's stay motion papers, a stay is warranted because Plaintiffs' claims threaten to diminish an asset of the bankruptcy debtor's estate in the Diocese's Chapter 11 case. Thus, it would be the Diocese that would need to move the Bankruptcy Court for stay relief regarding this action. I agree with Leah's understanding that no such motion appears to have been made by the Diocese. I am following up with my colleagues to see if there is any update that can be offered on that matter.

Dennis K. Schaeffer

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From: Leah Costanzo <lcostanzo@steveboyd.com>
Sent: Monday, August 14, 2023 9:05 AM
To: Andrew J. Pace <apace@nycourts.gov>
Cc: Schaeffer, Dennis <dschaeffer@bsk.com>; keleonard@kslnlaw.com; Jim Orr <JOrr@steveboyd.com>
Subject: RE: 801322/2019 Billy Evans et al v. Southtowns Catholic School et al

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Good morning Andrew,

My understanding was that defendants' motion to stay, which was fully submitted and argued before Judge Vacco, was on hold pending defendant's application to the bankruptcy court for a stay of this matter. Plaintiffs' position is that the current bankruptcy stay does not apply to this case. To date, I have not received notice of any bankruptcy court motion related to this case.

Leah

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From: Schaeffer, Dennis <dschaeffer@bsk.com>
Sent: Friday, August 11, 2023 5:00 PM
To: Andrew J. Pace <apace@nycourts.gov>; Leah Costanzo <lcostanzo@steveboyd.com>; keleonard@kslnlaw.com
Cc: Schaeffer, Dennis <dschaeffer@bsk.com>
Subject: RE: 801322/2019 Billy Evans et al v. Southtowns Catholic School et al

Hi, Andrew.

By way of context: We'd previously discussed the ongoing dispute between the Diocese, as debtor in its Chapter 11 case, and 49 plaintiffs who have not consented to suspend their prosecution of sex abuse claims against affiliates of the Diocese in light of the bankruptcy. On May 31st of this year, the Diocese asked Judge Bucki to extend the litigation stay as against the 49 non-consenting plaintiffs. The motion was argued in June.

After getting your email, I looked at the Chapter 11 case's docket and saw that Judge Bucki issued a Decision and Order on that motion in mid-July. A copy of the Decision and Order is attached. My apologies for not making the Court and counsel aware of this earlier. By the Decision and Order, Judge Bucki extended the above-mentioned stay until November 1, 2023.

I had been given to understand that, once the Diocese's most recent stay motion was decided, the Diocese would be in a position to decide what next steps to take (if any) regarding a motion to stay

this action. The Diocese has not yet made such a motion in the Chapter 11 case. I will follow up with my bankruptcy colleagues to see if they have an update.

As a practical matter, the Diocese and its counsel are likely focused on the ongoing formal mediation process in the bankruptcy case. There were two days of formal mediation in July and there are two more sessions being held this month. Judge Bucki noted those mediation sessions in his Decision and Order.

Finally, I note with interest that, in his Decision and Order, Judge Bucki reasoned as follows:

In opposing the extension of a stay, the non-consenting plaintiffs argue stridently that non-bankrupt defendants should be held accountable for wrongful conduct. But each of the non-consenting plaintiffs has also filed a proof of claim seeking recovery in this bankruptcy case. Having thereby consented to the jurisdiction of this Court, they are bound under 11 U.S.C. § 105(a) to a process that 'is necessary or appropriate to carry out the provisions' of the Bankruptcy Code. (Pg. 5)

As you're aware from the pending stay motion in this action, plaintiffs herein have also filed a proof of claim in the Diocese's bankruptcy case (see [NYSCEF Doc. No. 36](#)). Judge Bucki's above-quoted reasoning is in-line with our position herein that the plaintiffs' filing of a proof of claim in the Chapter 11 case reveals that a stay of this action is appropriate and warranted (see [NYSCEF Doc. No. 31](#) at ¶ 7).

I'd be happy to discuss further. I'll also work to get an update on what the Diocese's plans may be relative to this action.

Best,
Dennis

Dennis K. Schaeffer

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From: Andrew J. Pace <apace@nycourts.gov>
Sent: Friday, August 11, 2023 10:37 AM
To: lcostanzo@steveboyd.com; Schaeffer, Dennis <dschaeffer@bsk.com>; kleonard@kslnlaw.com
Subject: RE: 801322/2019 Billy Evans et al v. Southtowns Catholic School et al

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Dennis:

Remind me where you are with this? Has Judge Bucci decided whether these types of cases may proceed in NYS court?

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